

APPROVED: Meeting No. 46-80

ATTEST: *William E. Hanna, Jr.*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 44-80

December 8, 1980

The Mayor and Council of Rockville, Maryland, convened in executive session in the Conference Room, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, December 8, 1980, at 6:00 p.m. to discuss land disposition.

There being no further business to come before the Mayor and Council in executive session the meeting was adjourned.

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, December 8, 1980, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams  
(arrived at 8:20)

Councilman John Freeland

Councilwoman Phyllis Fordham

Councilman John Tyner

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; Assistant City Attorney Francis Lacey; Director of Finance John Lawton; Director of Planning James M. Davis; Director of Public Works Robert Goodin; Director of Community Development Doug Horne; Assistant City Manager Daniel Hobbs; Director of Community Resources Bert Drayton.

Re: City Manager's Report

Mr. Blick reported the following:

1. A use permit has been issued for a 209 square foot office park on Shady Grove Road in Danac Park. There will be four 2-story office buildings.

2. Since July 1, 23 loans and 26 grants have been approved by the City for a total amount of \$255,397. The average contract price was \$5,212.

3. The street striping has been completed. Eighteen thousand linear feet of white lines and one hundred thousand linear feet of yellow lines were placed on the street.

4. On Tuesday at noon, there will be a giant presentation to the County Executive and County Council on Rockville Town Center by the Mayor and the Planning Director.

Mayor Hanna said that on behalf of the National League of Cities, he had testified before the Inter-governmental Relations Committee on the White House Conference on Aging, which was shared by Wilbur Cohen. It gave him an opportunity to tell the world what Rockville is doing for seniors.

Last night Shady Grove Hospital had an awards and tree lighting ceremony and Mayor Hanna accepted a plaque in the name of the citizens of Rockville. It is a beautiful hospital and should be visited by the people in Rockville.

Re: Award of Contract: Bid No. 20-81;  
Sewer Rodding Machine

Two bids were received for the supply of the subject machine as follows:

<u>Bidder</u>	<u>Amount</u>
Sreco Sewer and Rodding Equipment Co., Lima, Ohio	\$12,476.48
O'Brien Division, Heico Inc., Mountain Top, Pennsylvania	12,969.96
(Budgeted Amount	\$13,000.00)

The low bidder does not meet the specifications in several respects which would be hazardous to the operation, would increase maintenance costs, and would result in a more difficult operation. Several items were specifically included in the bid documents to assure operator safety, vehicle safety, and low maintenance. The low bidder, contrary to specifications, has proposed supplying units with the following features:

- (1) Dual operating controls rather than a single operating lever which requires increased operator awareness and decreases operator safety.
- (2) Drive gears mounted outside of the frame (rather than inside) presenting a potential safety hazard to the operator.
- (3) No brakes are supplied for the trailer which decreases operator control when moving the unit on the streets.
- (4) A rotating hydraulic coupling rather than stationary which would increase maintenance.
- (5) The storage reel for the sewer rod is not self-centering and requires an external guiding tube for the sewer rod resulting in excessive wear and shorter life.

The O'Brien unit meets specifications in all respects and staff recommends the Mayor and Council award the bid to O'Brien Division, Heico Inc., for its price of \$12,969.96, the low bidder meeting specifications.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, Bid No. 20-81, was awarded to O'Brien Division of Heico Inc., in the amount of \$12, 969.96, the second low bidder since the lowest bidder did not meet the specifications.

Re: Award of Contract: Bid No. 6-81  
Communications Maintenance Agree-  
ment

On October 6 the Mayor and Council awarded Contract 6-81 to Motorola Communications and Electronics, Inc. for its low bid of \$10,554.60. After the award, Motorola refused to enter into a contract stating that the City did not include the Police Communications console in the bid document.

After review, it is the opinion of the City Attorney that although the Police Communications console was in fact included in the description of the equipment as one of the "base stations" it could be argued that the console was not specifically referenced and therefore Motorola could not be held to its low bid. The contract document listing the equipment is essentially the same document that has been used for the last five years.

Because of the above, the staff recommendation is that the second low bidder, Teltronics Industrial Systems, Inc., who was low bidder last year, be awarded the bid for \$11,724.00. The budget amount under Motor Vehicle Maintenance for this service is \$13,000.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 6-81, for the communications maintenance agreement was awarded to Teltronics Industrial Systems in the amount of \$11,724 since there was some difficulty with the low bidder and interpretation of the specifications.

Re: Resolution to allow withdrawal  
of Map Amendment Application,  
M-13-78, Rockville Gotham  
Associates, Applicant

Resolution No. 29-80

On motion of Councilman Freeland, duly seconded and unanimously passed, Resolution No. 29-80, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, allowing withdrawal of Map Amendment Application, M-13-78, was adopted by the Mayor and Council.

Re: Introduction of Ordinance: To  
Grant Text Amendment Application  
T-38-80.

On motion of Councilman Tyner, there was introduced upon the table an ordinance granting Text Amendment Application, T-38-80, said ordinance to lay over at least one week before final action is taken.

Re: Approval of Application for UMTA  
Grant to provide transportation  
for the handicapped.

Grant funding for handicapped transporatation is available to Rockville from the Urban Mass Transportation Administration (UMTA). UMTA has indicated that it will consider funding for a \$40,000 - \$50,000 grant contingent upon completion of a formal application. Twenty percent of the grant amount must be a local match, which could be in-kind services, such as bus drivers. The UMTA funds may be applied only to capital costs of equipment, not to operating or maintenance expenses.

These funds could be used to increase the accessibility of existing senior transportation and recreation programs.

The existing City fleet consists of 4 non-accessible minibuses. In the FY 1981 budget Mayor and Council added funding to replace one minibus with a large, handicapped accessible bus. The primary services provided by these buses are trips for shopping, medical appointments, and daily nutrition. In addition transportation is provided daily to programs offered through the Recreation and Parks Department.

Grant funds could be used to replace existing equipment with accessible vehicles and/or to add to the fleet. These vehicles could be used to make existing trips handicapped accessible, or to add additional trips specifically for the handicapped. The latter would be a new program and require more bus drivers.

One of the current minibuses, which is 6 years old, is scheduled for replacement in FY 1982. The City could use grant funds to upgrade this replacement to an accessible minibus (\$25,000). The replacement cost of the minibus (\$20,000) would be saved. At the same time, the City could acquire an accessible van (\$15,000). The van could be substituted for a minibus on trips carrying eight or fewer people, thus saving operating costs. There would be

greater flexibility to use the appropriate size vehicle for trips that include handicapped persons.

While the availability of these vehicles would make more services accessible, it would not mean an increase in staffing if the same number of routes are maintained. Future costs would increase as the van and the upgraded minibus would have to be replaced. This additional cost may be avoided through future grant funding.

Other options available would be to delay the acquisition of the large bus and apply the grant fund toward it or to add City funded full- or part-time bus drivers as well as applying for grant funding for the van and minibus. The staff recommends applying for handicapped equipped minibus and a handicapped van. Councilwoman Fordham said she is not ready to seek the grant as specified and she would prefer to have some input from the Senior Citizen's Commission. The City Manager said that purchasing a large bus is what the seniors requested and this was approved in the last budget; however, in 1982 there will be a need to replace the minibus and this is being suggested by the staff so that it would be funded out of a grant rather than the general fund. Councilman Tyner asked if there would be additional administrative costs. He was assured there would be none. Mayor Hanna noted that he did not favor the staff's recommendation.

Councilwoman Fordham moved, seconded by Councilman Tyner, that staff proceed with option 1 which is replacing the minibus with handicapped minibus and adding a handicapped equipped van. The Council discussed this further. Councilman Abrams asked about the manned response system and under what federal programs the staff expected funding. Mayor Hanna noted that he still feels a van is all that is needed. Councilwoman Fordham amended her motion and the seconder accepted it so that the staff was authorized to apply for a grant to fund only a handicapped equipped van. Councilman Abrams moved to amend the motion to assure that the grant funding would not be in conflict with City policy of adding labor or personnel. The amendment to the motion passed unanimously.

Councilwoman Fordham's motion as amended, was passed unanimously.

Re: Approval of staff recommendations  
on the Regional Water Facility  
Management Plan

In June 1978, the Water Resources Planning Board (WRPB) of the Metropolitan Washington Council of Governments (COG) adopted an areawide water quality managment

plan for the Washington metropolitan area, pursuant to the requirements of Section 208 of the Federal Water Pollution Control Act (PL 92-500), as amended. This plan provided the regional framework for establishing and implementing a water quality management program to attain the clean water goals of the Act.

Since that time, the City has monitored the activities of the WRPB and participated in the formulation of the subject "draft" Supplement to the Water Quality Management Plan.

The staff has reviewed the supplement and recommends four (4) areas for further comment:

1. General Observations regarding the Plan and process;
2. Chapter 5 - Flow projections;
3. Basin-wide task forces and boards;
4. Future regional water resources planning activities and cost distribution formula.

A letter was submitted to the Council for approval elaborating on these points.

On motion of Councilman Freeland, duly seconded and unanimously passed, the staff's comments in the letter were approved by the Mayor and Council.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

There being no citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Public Hearing: X-81-80, Mayor and Council Applicant, to provide for the annexation of the Betts' property, 9.69548 acres, Evergreen Lane, Falls Road at Ritchie Parkway

The Mayor and Council conducted a public hearing on annexation petition application X-81-80, and heard those persons as will be found in the official stenographic transcripts of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be held open until noon on December 15, 1980.

Re: Public Hearing: M-24-80, Map Amendment Application, requesting that the property at 110 South Washington Street, be rezoned from the present O-1, Office Zone, to R-90 Residential Zone

The Mayor and Council conducted a public hearing on map amendment application, M-24-80, and heard those persons as will be found in the official stenographic transcripts of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be held open until noon on December 15, 1980.

Re: Public Hearing: M-25-80, Map Amendment Application, requesting that the property at 39 West Montgomery Avenue, be rezoned from the present O-2 Transitional Zone, to R-90, Residential Zone.

The Mayor and Council conducted a public hearing on map amendment application, M-25-80, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be held open until noon on December 15, 1980.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. John Gunther, United States Conference of Mayors, re Humanities
2. Senator Sarbanes, re Revenue Sharing
3. John Davis, re attendance at Council meeting
4. Gordon Vidmar, re street lights
5. Montgomery County, re member for Advisory Committee on County Medical Center  
Councilwoman Fordham suggested that Mayor Hanna ask in the future if the City could have more time so as to advertise this type of appointment. Mayor Hanna agreed.
6. John C. Jackson, re problem with selling property  
Councilman Tyner asked if he could have a report from the City Manager on this man's problem.
7. J. Bowman, Rockville Chamber of Commerce, re City ordinance changes
8. J. M. Sacco, re problem with trash collection

Mayor Hanna said although the staff has answered this letter he does not feel the response is satisfactory, and the staff should continue trying to reach him.

9. S. Caltrider, DOT, re signs for Rockville on I-270

Councilwoman Fordham said she is not satisfied with this answer. She feels their excuses are ridiculous. Mayor Hanna agreed but said for the moment the Mayor and Council will take no action since there are additional problems at this time from the Department of Transportation.

10. Additional letter re Yale Place/Master Plan
11. Motorola Communications Co., re withdrawal of Bid No. 6-81
12. Request from student in Canada for information

Re: Information Items

The Mayor and Council noted the following items of information:

1. Memo from Director of Public Works, re Street Sweeping
2. Copy of letter from Planning Director in response to complaint from Mr. R. Kimmel
3. Copy of letter from prospective purchaser of City property
4. Copy of memo re missing bus stop on Ritchie Parkway
5. Copies of liquor license applications
6. Copies of shopping center survey
7. Memo from Director of Budget re Population Forecasts
8. Copy of Lincoln Park newsletter
9. Memo from City Attorney re Dyson vs. Potomac Building Maintenance
10. Memo from City Attorney re Chvotkin vs. Norsab & City of Rockville
11. Memo from City Attorney re McAndrew vs. City of Rockville
12. Memo re State DOT Five Year Consolidated Transportation Program

Councilman Freeland said although the letter is a good one it should be addressed to the Governor with an information copy sent to the State Highway Administration and a meeting requested. Councilman Abrams requested that copies be sent to the United States Senate and Congressman since they are talking about a highway with federal funding. Councilwoman Fordham suggested that the Mayor and Council involve the Civic Associations which assisted them in the past. The Council agreed to this.

Re: Approval of Minutes

On motion of Councilman Freeland, duly seconded and unanimously passed, the minutes of Meeting No. 41-80, were approved as written.

On motion of Councilman Tyner, duly seconded and unanimously passed, the minutes of Meeting No. 42-80, were approved as amended.



Re: New Business

1. Councilwoman Fordham said the public information officer, Mrs. Patterson, is working diligently to get information on the moving of the B&O Railroad Station. She suggested the staff start working with Peerless Rockville to see if they might possibly have more success in ascertaining a date.

2. Councilman Tyner said the Montgomery Municipal League County Chapter has a municipal incorporation committee and Chevy Chase Section 3 is now taking steps to incorporate and has sent a draft charter for Council review. He said he will make copies of the charter available to the Mayor and Council and asked for their official support of Chevy Chase Section 3.

3. Mayor Hanna asked that the staff come back with an immediate proposal for a City tree lighting ceremony. Something that would last about 30 minutes in keeping with the season.

Councilman Abrams asked in the spirit of ecumenical cooperation if part of the ceremony could be devoted to a Hanukkah ceremony. He said the Jewish Day School could be asked to participate or the nursery school at Beth Shalom.

Re: Public Hearing M-23-80, Map Amendment Application, Fordham Development Applicant, continuing the hearing to request that the property on the Rockville Pike known as the Fireman's Carnival Grounds be rezoned from the present O-1, Office Zone to C-2, General Commercial Zone

The Mayor and Council conducted a public hearing on M-23-80, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open until noon on December 15.

Re: Decisions and Instructions to staff re: text amendment application T-41-80, prohibiting shooting ranges in the certain zones, and an ordinance to prohibit the operation of shooting ranges anywhere within the City limits

Councilman Tyner moved, seconded by Councilman Abrams, to amend the ordinance before the Council to add language pertaining to weapons operated by a spring or elastic. The Council discussed this at length and after clarification the amendment was passed unanimously.

Councilman Abrams said he is confused with the two decisions before the Council this evening. One alternative is to call public ranges a nuisance and the other is to consider them as a land use. He said he is persuaded that consideration of ranges as a nuisance is inappropriate. This is not a gun or anti-gun issue. Citizens are concerned with the transport of firearms, in, out and throughout the City. A nuisance statute does not abate fear and there is no provision to stop the transportation of weapons. For that reason he cannot support the ordinance.

Councilman Tyner moved, seconded by Councilwoman Fordham, to adopt the ordinance as amended.

Mayor Hanna said it is his feeling that this is bad law and it is always a bad law to be arbitrary and capricious and have the public unaware of what the law really is. After citizens or businessmen comply, government can pull the rug out from under them. This makes for a very uneasy business climate and it is no way to run a government. He said he is not sure of his stand if action had been taken prior to someone filing an application for a shooting range but as it stands now he is against it.

Councilwoman Fordham disagreed and said it is necessary for government to make laws in response to things that happen. There is no way government can operate in a vacuum. She sees nothing capricious and arbitrary about the action. At all times, government is making attempts to rectify rights and wrongs as is done in zoning changes and as was mentioned in a previous hearing this evening. When there is a mistake there is an effort made to correct it. Councilman Freeland asked if this ordinance would rule out the options opened to the Council as expressed in the text amendment before them. Mr. Lacey explained that affirmative action on this ordinance would rule out the text amendment since it takes away any permit powers. Councilwoman Fordham said she would not allow this in some areas while prohibiting it in others. She does not feel that is appropriate.

Councilman Tyner said he has received phone calls from numerous citizens stating their opposition to such a range being located in the City. He said it is a case of government making a mistake. While looking at tens of thousands of uses, one such as this can slip by.

The ordinance was defeated, Councilmembers Fordham and Tyner voting aye, Mayor Hanna and Councilmembers Freeland and Abrams voting nay.

Councilman Abrams moved, seconded by Councilman Freeland to instruct the staff to draw up the necessary legal documentation to grant text amendment application, T-41-80.

Councilman Abrams moved that when the ordinance is drafted, the provision for shooting ranges in the C-2 zone be stricken. Mr. Lacey said this could not be done without another public hearing and explained the provisions of text amendments in the zoning ordinance. Councilman Abrams then suggested that the Council go ahead and adopt the ordinance to grant the text amendment when it is before them and then proceed with a new application with a C-2 modification.

Councilman Abrams reiterated his strong feelings as to the inappropriateness of shooting ranges in the Town Center because it should be considered as a land use. The Town Center is intended to symbolize the hopes of the City and a shooting range is not the type of signal the Mayor and Council hopes to send out.

Councilman Freeland noted the numerous calls he has had on this matter. He said he is not anti-range nor anti-gun; he is only interested in the City as a whole.

Councilwoman Fordham said she considers the text amendment a "wishy washy" way of placing some people. The calls she received from citizens noted that they did not want guns anywhere in the City. She said she also considers it inappropriate for the City Manager to be making a decision on permits while judging against criteria that are loose and undefined. She said she would continue to work for a complete ban. Councilman Abrams said although he could join with Councilwoman Fordham in some of her remarks, he is glad to see that some improvement is being made. Mayor Hanna said he will vote for granting the amendment because it will preserve some semblance of recognition to the substantial number of citizens who enjoy the sport. He added that he had received no calls against the shooting range and he is happy to see an establishment that will teach people how to handle guns.

Councilman Abrams' motion instructing the staff to prepare the legal documentation to grant the text amendment application was passed unanimously.

Re: Decisions and Instructions to staff  
re reconsideration of PRU-4,  
Rockshire Planned Residential Unit

Before the Council this evening are materials including two letters. One from the representative of the owner of the property which was the subject of the reconsideration of the public hearing and another from the Rockshire Homeowners Association. They represent an agreement in principal subject to confirmation by the Mayor and Council to develop a 35 unit townhouse project on combined parcels "D" and "E".

Councilman Tyner moved, duly seconded, that the staff prepare an ordinance incorporating the agreement of the developer and the homeowner's association as the staff has recommended. Councilman Tyner asked if the staff is aware of the use of Parcel "C" since it is not mentioned anywhere in the materials. Mr. Lacey said parcel "C" was left out of the original consideration so it cannot be brought forward at this time. The Council agreed that the information provided is satisfactory since it represents an agreement with the community and complimented them on reaching an agreement.

Councilman Tyner's motion with instructions to the staff, was passed unanimously.

Re: M-23-80

Mr. Lacey asked the Mayor for a clarification of the action taken during the public hearing and asked if in fact the Mayor and Council at the next meeting would be considering the request for postponement. The Mayor said that would be the agenda item.

Re: Adjournment

There being no further business to come before the Mayor and Council in general session the meeting was adjourned at 10:10 p.m. to convene again in general session on Monday, December 15, at 8:00 p.m. or at the call of the Mayor.